

REMARKS

The Office requires restriction citing 35 U.S.C. § 121 to one of the following inventions:

- I. Claims 1-10 drawn to a composition of a retinoid and a peptide of SEQ ID NO: 1-75 and methods of its administration; or
- II. Claims 1-10 drawn to a composition of a retinoid and a specific combination set of peptides from SEQ ID NO: 1-75 and methods of its administration.

The Office has asserted that each of the inventions are distinct from each other because they are related as a combination and subcombination and the combination does not require the particulars of the subcombination as claimed for patentability and the subcombination has utility by itself; further, because the inventions are distinct and the search required for Group I is not required for Group II, restriction is proper.

NO SERIOUS BURDEN TO CONDUCT SEARCH

Restriction is a permissive practice, improper when an Examiner will not be seriously burdened in searching the inventions described in the restricted claims. (MPEP § 803). The Office has asserted that the search required for Group I is not required for Group II. Applicant respectfully submits that the Office will not be required to perform separate searches for Group I and II. A search of Group I will necessarily include a search of Group II because both sets of claims involve the same set of peptide sequences. For example, as instructed by the Examiner, if Group I is elected, Applicant must further elect 10 amino acid sequences. The search conducted by the Examiner for each of the individual ten sequences is no different than the search conducted by the Examiner for any combination of those same ten sequences. The search performed is the same for Group I as for Group II for the ten sequences. Whether the Examiner searches for the sequences individually or in combination, the Examiner is still searching those same ten elected sequences.

Furthermore, the Office will not be seriously burdened in the search in considering the inventions described in the restricted claims because the each group falls within the same class and subclass. Therefore, to conserve the time and expense for both the Office and the Applicant herein, Applicant respectfully requests that the Examiner withdraw the Restriction Requirement.

SEQUENCE ELECTION

Regarding the sequence election, Applicant has elected SEQ ID NO: 17. As the Examiner noted in the Restriction Requirement, more than a single sequence identification number will be searched if Applicant can demonstrate that two or more polypeptides are related such that a single subsequence found within a specific sequence identification number can be searched. As such, it is respectfully submitted that the subsequence, VVPQ, found within SEQ ID NO: 17 is also found within SEQ ID NOs: 45-54. Applicant also submits that this subsequence is of sufficient length to identify pertinent art.

Since Applicant is entitled to elect up to ten amino acid sequences, Applicant also elects SEQ ID NOs: 55-63. It should also be noted that these sequences are related to SEQ ID NO: 17 as taught by the specification.

CONCLUSION

Applicant appreciates the Examiner's attention to this matter. Please charge any additional fees or credit any overpayments to Deposit Account 02-2051 referencing Attorney Docket No. 25812-74.

Respectfully submitted,

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Dated: 6 MAR 2003